

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SEVENTY-THIRD LEGISLATURE
OF THE
STATE OF MAINE
1907.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1907.

Chapter 433.

An Act to incorporate the Portland Water District.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Section 1. Subject to the provisions of section seventeen hereof, the territory and people constituting the city of Portland, the city of Westbrook and the city of South Portland shall constitute a public municipal corporation under the name of the Portland Water District for the purpose of supplying the inhabitants of said cities and the towns of Standish, Windham, Cape Elizabeth and Scarborough and said municipalities with pure water for domestic, sanitary and municipal purposes.

Corporate limits.

—corporate name.

Section 2. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from Sebago lake.

May take water from Sebago lake.

Section 3. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, by purchase or otherwise, any land or interest therein or water rights necessary for erecting and maintaining dams, for flowage, for power for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and water shed, for laying and maintaining aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights of way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

May take and hold land, etc.

Section 4. The said district is hereby authorized to lay in and through the streets, roads, ways and highways of the cities and towns named in section one and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts, and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes or aqueducts in any street, road, way or highway it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall at its own expense without unnecessary delay cause the earth and pavement removed by it to be replaced in proper condition.

May lay pipes in and through streets.

—shall not unnecessarily obstruct public travel.

Section 5. The said district is hereby authorized, for the purposes of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes.

May maintain dams, etc.

Section 6. In exercising any right of eminent domain conferred upon it by law, from time to time, or any rights of

Shall file plans of location of

CHAP 433

all lands
taken.

eminent domain through or under the franchises of any water company by it acquired, the said district shall file in the office of the county commissioners of Cumberland county and record in the registry of deeds in said county plans of the location of all lands or interests therein or water rights, to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire the property authorized to be taken, and which is described in such location, or the location recorded is defective or uncertain, it may, at any time, correct and perfect such location and file a new description thereof, and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of ten days from such filing, whereon possession may be had of all said lands or interests therein or water rights so taken, but title thereto shall not vest in said district until payment therefor.

—may
correct
location and
file new
plans.

Damages,
how
assessed if
parties fail
to agree.

Section 7. If any person, sustaining damages by any taking as aforesaid, shall not agree with said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Cumberland county, may have said damages assessed by them; the procedure and all subsequent proceedings and right of appeal thereon shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Place and
manner of
crossing
railroad,
how de-
termined.

Section 8. In case of any crossing of a railroad, unless consent is given by the company owning or operating such railroad as to place, manner and conditions of the crossing, within thirty days after such consent is requested by said district, the railroad commissioners shall determine the place, manner and conditions of such crossing; and all work within the limits of such railroad location shall be done under the supervision and to the satisfaction of such railroad company, but at the expense of the district.

Board of
trustees,
how chosen.

Section 9. All the affairs of said district shall be managed by a board of trustees composed of five members. Three of said trustees shall be elected by the city of Portland in the manner hereinafter provided. If this act is accepted by the city of Westbrook, one member of said board shall be elected by the said city of Westbrook in the manner hereinafter provided, otherwise such member shall be elected by the city of Portland

in the manner hereinafter provided. If this act is accepted by the city of South Portland, one member of said board shall be elected by the city of South Portland in the manner hereinafter provided, otherwise such member shall be elected by the city of Portland in the manner hereinafter provided.

Section 10. The trustees so to be elected shall be elected by a plurality vote of the legal voters in each of said cities accepting this act voting at an election to be specially called and held therefor on the fourth Monday of May, nineteen hundred and seven. Such special election shall be called, advertised and conducted according to the law relating to municipal elections in said cities, except as otherwise provided herein, provided, however, that the board of registration in said cities shall not be required to prepare for posting or the city clerks thereof to post a new list of voters but for the purpose of registration of voters said boards shall be in session the three secular days next preceding such election, the first two days thereof to be devoted to registration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up its records of said sessions. All nominations of candidates so to be voted for shall be made by nomination papers signed in the aggregate for each candidate by no less than fifty qualified voters of the city in which he is named as a candidate. Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to as many nominations as there are trustees to be elected in his city and no more. Such nomination papers shall, before being filed, be submitted to the city clerk of the city where such nomination is made, who shall forthwith certify thereon what number of the signatures are names of qualified voters in said city; one of the signers to each such separate paper shall swear to the truth thereof, and the certificate of such oath shall be annexed to or made upon the nomination papers. Such nomination papers shall be filed with the city clerk of the city where such nomination is made at least seven days, exclusive of Sundays, previous to the day of such election. With such nomination papers shall also be filed the consent in writing of the person or persons nominated. All nomination papers, being filed and being in apparent conformity with the foregoing provisions, shall be deemed to be valid; and if not in apparent conformity, they may be seasonably amended under oath. In case any candidate who has been duly nominated under the provisions hereof shall die before the day of election, or shall

Proceedings for the election of trustees.

—special election, how called.

—nominations of candidates.

—nomination papers shall be inspected by city clerk.

CHAP. 433

--form of
ballot.

--marking
ballot.

term of
office, when
to begin.

--organiza-
tion of
trustees.

May
establish
by-laws.

withdraw in writing, the vacancy may be supplied in the manner herein provided for such nominations. The name so supplied for the vacancy shall, if the ballots have not been printed, be placed on the ballots instead of the original nomination; or, if the ballots have been printed, new ballots containing the new nomination shall, if practicable, be furnished, or slips containing the new nomination shall be printed under the direction of the city clerk, which may be pasted in proper place upon the ballots and thereafter shall become part and parcel of said ballots as if originally printed thereon. The ballot in each city shall contain the names of all candidates so nominated in such city printed in one column under the heading, 'For Trustees of the Portland Water District.' Above such heading shall be printed 'Vote for three, or such number as may be appropriate, trustees. Make a cross to the right of each name voted for.' As many blank spaces shall be left after the names of the candidates as there are trustees to be elected, in which the voter may paste on or by writing insert the name or names of any person or persons for whom he desires to vote. In preparing his ballot the voter shall mark a cross (X) against and to the right of such names on said ballots as he desires to vote for, not to exceed the number of trustees so to be elected in the city in which he is voting. If the voter shall desire to vote for any person or persons whose name or names are not to be printed on the ballot, he may fill in such name or names in the blank spaces left therefor by writing the same therein or by using a sticker or stickers containing such new name or names. Where the voter so adds by writing or by sticker such new name or names, his vote for such new name or names shall be counted therefor although he may fail to mark a cross against the same. The result of such election in each city shall be declared by the municipal officers and due certificate thereof filed with the city clerk thereof. The term of office of the trustees shall begin on the said fourth Monday of May. As soon as convenient after all the members of said board have been so chosen, said trustees shall hold a meeting at the city rooms in the city of Portland to be called by one of said trustees upon such reasonable notice therefor as he deems proper. They shall organize by the election of a president and a clerk, adopt a corporate seal and when necessary may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. They may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the

affairs of the district. At said first meeting the trustees so elected shall determine by lot the term of office of each trustee so that one trustee shall retire each year and whenever the term of office of a trustee expires his successor shall be elected by a plurality vote by the city which elected him and upon nomination made as herein provided for the first election of trustees, and for the purpose of such election, a special election shall be called and held on the fourth Monday of May in each year in the city wherein such trustees is to be elected, the same to be called in the manner hereinbefore provided for the first election of trustees. The trustees so elected shall serve the full term of five years; and in case any vacancy arises in the membership of the board of trustees it shall be filled in like manner, for the unexpired term, by special election to be called by the municipal officers of the city wherein the election is to be held. When any trustee ceases to be a resident of the city by which he was elected he vacates such office of trustee and the vacancy shall be filled as aforesaid. All such trustees shall be eligible to re-election, but no person holding a municipal office in either of said cities shall be eligible to election as trustee. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive in full compensation for his services an allowance of four hundred dollars per annum. At the close of each fiscal year the trustees shall make a detailed report of their doings, of the receipts and expenditures of said water district, of its financial and physical condition, and of such other matters and things pertaining to said district as shall show the inhabitants of said district how said trustees are fulfilling the duties and obligations of their trust, such reports to be made and filed with the municipal officers of the cities accepting this act.

—shall determine term of office of trustees.

—compensation of trustees.

Section 11. Said water district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said district for said purpose, the entire plants, properties, franchises, rights and privileges of the Portland Water Company and the Standish Water and Construction Company, except their cash assets, including all stocks in other companies, lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tolls and all apparatus and appliances owned by said companies, whether their aggregate value exceeds or not the value limit named in the charter of said companies and whether the record title thereto is or is not in said Portland Water Company. The said water companies are here-

May acquire properties of Portland Water Company and Standish Water and Construction Company.

CHAP. 433

by authorized to sell and transfer their respective franchises and properties to said water district. All said franchises and properties shall be taken subject to all debenture bonds, mortgages, liens and encumbrances thereon, all of which debenture bonds, mortgages, liens and encumbrances shall be assumed and paid by said Portland Water District.

Proceedings for taking plant, property and franchises of water companies, as for public uses.

Section 12. Where the said trustees fail to agree with either of said water companies upon terms of purchase on or before July first, nineteen hundred and seven, then said water district through its trustees is hereby authorized to take all the plants, properties and franchises of such water companies so failing to agree, subject, however, to all mortgages, liens and encumbrances thereon as stated in section eleven, as for public uses, by a petition therefor in the manner hereinafter provided, wherein such water companies and their mortgagees shall be the parties defendant. And said water district, through its trustees, is hereby authorized on or before July fifteenth, nineteen hundred and seven, to file a petition in the clerk's office of the supreme judicial court for the county of Cumberland in term time or vacation, addressed to any justice thereof, who, after notice to said defendant water companies and their mortgagees, shall, after hearing and within sixty days after the filing of said petition, appoint three disinterested appraisers, none of whom shall be residents of the county of Cumberland, one of whom shall be learned in the law, for the purpose of fixing the valuations respectively of the plant, property and franchises of each of said defendant water companies described in section eleven of this act. The time for so appointing said appraisers may be extended by the court an additional thirty days. Said petition shall not be dismissed after filing, but may and shall be amended in any manner required to enable the court to make all necessary decrees thereon. At the hearing aforesaid, such justice, upon motion of the petitioner, if the same are not voluntarily produced, may order under proper terms the production for inspection by the petitioner, of all books and papers pertinent to the issues to be heard by said appraisers. The said appraisers shall have the power of compelling attendance of witnesses and the production of books and papers pertinent to the issue and may administer oaths; and any witnesses or person in charge of such books or papers refusing to attend or to produce the same shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the supreme judicial court. Depositions may be taken as in civil actions. The report of a stenographer, appointed by

—appointment of appraisers.

—powers of appraisers.

the appraisers, certified by said appraisers as correct, shall be filed with the award to be made by said appraisers and shall be legal evidence of all proceedings so reported. The appraisers so appointed, shall, after due notice and hearing, fix the respective valuations of the plants, properties and franchises of said defendant water companies as described in section eleven of this act at what they are fairly and equitably worth, so that said water companies shall severally receive just compensation for all the same. The first day of January, nineteen hundred and eight, shall be the date as of which the valuations aforesaid shall be fixed, from which date interest on said award at the rate of six per cent per annum shall run and all net rents and profits accruing thereafter shall belong to said water district. The report of said appraisers or of a majority of them, shall be filed in said clerk's office within six months after their appointment, unless the time is extended by the court for cause. After said report is filed, such single justice, so appointing said appraisers, or in case of his inability to act, then any justice designated for the purpose, by the chief justice, may, after notice and hearing, confirm or reject the same or recommit, if justice so requires, and in case of such rejection or recommitment such justice may order new hearing and new report thereon. The award of the appraisers shall be conclusive as to valuations. Upon the confirmation of their report, the court so sitting, in term time or vacation, shall thereupon, after hearing, make final decree upon the whole matter, including transfer of the properties and franchises, jurisdiction over which is hereby conferred with the same power to enforce said decree as in equity cases. All the costs and expenses arising under such petition and appraisal shall be paid and borne as directed by the court in said final decree. The findings of such justice as to such costs and expenses and their apportionment shall be final. In all other matters the justice so making such final decree, shall, upon request of any of the parties, make separate findings of law and fact. All such findings of fact shall be final, but any party aggrieved may take exceptions to any rulings of law so made, the same to be accompanied only by such parts of the case as are necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within ten days after such final decree is signed, entered and filed, and notice thereof has been given by the clerk to the parties or their counsel, and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of the parties. They shall be

—appraisers, after notice and hearing, shall fix valuation.

—appraisers shall file report.

award of appraisers shall be conclusive as to valuation.

—court shall make final decree.

—findings of fact shall be final.

—exceptions may be taken.

—exceptions shall be claimed within ten days.

CHAP. 433

—exceptions shall be entered at next term of court.

—cause shall remain on docket marked "law" during pendency of exceptions.

—receipts and expenditures, how adjusted.

—vacancies on board of appraisers, how filled.

entered at the next term of the law court to be held after the filing of such exceptions and there heard unless otherwise agreed, or the law court shall for good cause order a further time for hearing thereon. Upon such hearing the law court may confirm, reverse or modify the decree of the court below, or remand the cause for further proceedings as it seems proper. During the pendency of such exceptions the cause shall remain on the docket of the court below marked 'law' and decree shall be entered thereon by a single justice, in term time or in vacation, in accordance with the certificate and opinion of the law court. Before the aforesaid plants, properties and franchises, or any of them, are transferred in accordance with such final decree, and before the payment therefor, the court sitting in said county of Cumberland, by a single justice thereof, as hereinbefore provided, shall, upon motion of any party, after notice and hearing, take account of all receipts and expenditures properly had and incurred by each of said water companies belonging to the period from and after January first, nineteen hundred and eight, and all net rents and profits accruing thereafter, and shall order the net balance due to any party to be added to or deducted from the amount to be paid under said final decree as the case may be. All findings of law or fact by such single justice as such hearings shall be final. On payment or tender by said water district of the amounts so fixed and the performance of all other terms and conditions so imposed by the court, the entire plants, properties and franchises respectively of said water companies as described in section eleven, shall become vested in said water district, subject to all liens, mortgages and encumbrances theretofore created by said water companies, or either of them. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said water companies, or either of them, may thereafterwards cause said valuations to be made as herein provided, and shall be entitled to appropriate process to compel said water district to perform the terms of the final decree and to pay for said plants, properties and franchises in accordance therewith. If a vacancy occurs at any time in said board of appraisers, from any cause, any justice of the supreme judicial court, sitting in said county of Cumberland, may, in term time or in vacation, after notice and hearing, appoint a new appraiser or appraisers, and make all such orders for hearing said cause by the appraisers, anew or for any extension of time for making their award, or otherwise, as the circumstances of the case may require.

Section 13. All valid contracts now existing between said water companies, or either of them, and any person, corporation or municipal corporation for supplying water within the cities of Portland, South Portland and Westbrook and the towns of Standish, Gorham, Windham, Falmouth, Cumberland and Cape Elizabeth shall be assumed and carried out by said Portland Water District. The property of the Portland Water Company within the town of Gorham may, after its acquisition by said district, be taxed such amount as shall not exceed the tax assessed thereon for the municipal year nineteen hundred and six.

Valid existing contracts, shall be assumed and carried out.

Section 14. For accomplishing the purpose of this act, said water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the interest-bearing negotiable notes of the district, and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities, incurred under the provisions of this act, including the expenses incurred in the creation of the district, in acquiring the properties and franchises of the Portland Water Company and the Standish Water and Construction Company, by purchase or otherwise, of the purchase or acquisition of the properties and franchises of said water companies, of assuming and paying the mortgages, liens and encumbrances thereon as provided in section eleven, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant, and making renewals, extensions, additions and improvements to the same, the said water district, through its trustees, may from time to time issue bonds of the district, to an amount or amounts necessary in the judgment of the trustees therefor. Said notes and bonds shall be legal obligations of said water district, which is hereby declared to be a quasi municipal corporation within the meaning of section ninety-six, chapter forty-seven of the revised statutes, and all the provisions of said section shall be applicable thereto. The said notes and bonds shall be legal investments for savings banks.

Water district may borrow money and issue notes.

—may issue bonds.

Section 15. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the water used by them, and said rates shall be uniform within the territory supplied by the district. Said rates shall be so established as to provide revenue for the following purposes:

Board of trustees may establish uniform rates.

I. To pay the current expenses for operating and maintaining the water system.

—to pay current expenses.

CHAP. 433

—payment
of interest.

—to provide
a sinking
fund.

—division
of surplus,
if any.

Incidental
powers
granted.

This act to
take effect
as to the
cities of
Westbrook
and South
Portland
when
approved by
the voters
of said
cities.

—special
election,
how called.

—form of
question to
be sub-
mitted.

II. To provide for the payment of the interest on the indebtedness created or assumed by the district.

III. To provide each year a sum equal to not less than one nor more than five per cent of the entire indebtedness created or assumed by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of such indebtedness. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district or invested in such securities as savings banks are allowed to hold.

IV. If any surplus remains at the end of the year, it may be divided between the municipalities accepting this act and so composing the district in the same proportions as each contributed to the gross earnings of the district's water system, and, in order that these proportions may be readily determined, all moneys received for water in each of said municipalities shall be entered in separate accounts so that the total amount thereof can be easily ascertained.

Section 16. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

Section 17. This act, so far as it includes the territory and people constituting the city of Westbrook and the city of South Portland as a part of said Portland Water District, as provided in section one hereof, shall not take effect respectively as to said Westbrook and said South Portland, unless accepted and approved by a majority vote of the legal voters respectively of said cities voting at elections to be specially called and held for the purpose on the second Monday of May, nineteen hundred and seven. Such special elections shall be called, advertised and conducted according to the law relating to municipal elections, provided, however, that the board of registration in each of said cities shall not be required to prepare for posting or the city clerk to post a new list of voters, and for the purpose of registration of voters said board shall be in session the three secular days next preceding such elections, the first two days thereof to be devoted to registration of voters and the last day to enable the boards to verify the corrections of said lists and to complete and close up their records of said sessions. The city clerk shall reduce the subject matter of this act to the following question: 'Shall the act to incorporate the Portland Water District be accepted?' and the voters shall indicate by a cross placed over the words 'Yes' or 'No' their opinion of the same. The result in each city shall be declared by the municipal officers

thereof and due certificate thereof filed by the city clerk with the secretary of state. Should either or both said cities fail to accept this act, then the territory and people within such city or cities shall not be a part of said Portland Water District, but said water district shall supply water to such city or cities, and to the inhabitants thereof under the provisions of this act.

Section 18. This act, subject to the provisions of section seventeen, shall take effect when approved by a majority vote of the legal voters of the city of Portland voting at an election to be specially called and held for the purpose on the second Monday of May, nineteen hundred and seven. Such special election shall be called, advertised and conducted according to the law relating to municipal elections, provided, however, that the board of registration shall not be required to prepare for posting or the city clerk to post a new list of voters and for the purpose of registration of voters said board shall be in session the three secular days next preceding such election, the first two days thereof to be devoted to registration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up its records of said sessions. The city clerk shall reduce the subject matter of this act to the following question: 'Shall the act to incorporate the Portland Water District be accepted?' and the voters shall indicate by a cross placed over the words 'Yes' or 'No' their opinion of the same. The result shall be declared by the mayor and aldermen and due certificate thereof filed by the city clerk with the secretary of state.

This act to be approved by the voters of the city of Portland.

—form of question to be submitted.

Section 19. Wherever the word 'Portland' is used in this act it shall be construed to exclude the islands in Casco Bay. In all elections hereunder the board of registration shall exclude from their lists and from all checks lists the legal voters that are residents of said islands, and all warrants issued to the wards of which such islands are a part shall be varied accordingly to show that only the voters resident within the territorial limits of the water district are entitled to vote hereunder.

Islands of Casco bay not to be included.

Section 20. Sections two, three, four, five, six, seven and eight shall be inoperative, null and void, unless the said water district shall first acquire by purchase, or by the exercise of the right of eminent domain as in this act provided, the plants, properties and franchises, rights and privileges of the Portland Water Company and the Standish Water and Construction Company.

When certain sections of this act shall be null and void.

CHAP. 434

Section 21. This act shall take effect when approved by the governor, so far as necessary to empower the calling and holding of the elections authorized in sections seventeen and eighteen hereof.

Approved March 27, 1907.

Chapter 434.

An Act to authorize the County Commissioners of Washington County to create a sinking fund for the purpose of paying the bonded debt of said County.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Sinking fund authorized.

Section 1. The county commissioners of the county of Washington are hereby authorized to create a sinking fund for the purpose of paying the bonded debt of said county.

Duty of county commissioners.

Section 2. Such sums as shall be raised on property or taken from any surplus in the county treasury for that purpose shall be severally invested by the commissioners of said county upon a two-thirds vote of said county commissioners and the senators and representatives of the legislature from said county present at a meeting called by said commissioners for that purpose, and said sums shall be reinvested as occasion may require in the name of said county and in the manner herein provided until required to be used in the payment of said bonded indebtedness of said county.

Meetings, how called.

Section 3. Meetings provided for in section two of this act shall be called by the county commissioners by a registered letter addressed by them to all members of the legislature from said county, naming the date, place and object of the meeting at least seven days before the same.

Expenses for attending meetings, how paid.

Section 4. Senators and representatives attending any meeting called under the provisions of section three of this act shall be paid from the county treasury of said county, actual expenses of attendance of said meetings upon an order drawn by the county commissioners.

Section 5. This act shall take effect when approved.

Approved March 27, 1907.